

# DEFENSIVE DRIVING BOARD

## Meeting Agenda - Thursday, August 16, 2018

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 – 10:00 A.M. – Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).

**CALL TO ORDER .....** *Daniel Edwards, Chair*

**1) REVIEW AND APPROVAL OF MINUTES .....** *Daniel Edwards, Chair*

*1-A: Review, discussion and possible action regarding the regular session minutes for the meeting of June 14, 2018.*

**2) PENDING COMPLAINTS.....***Division Staff*

*2-A: Review, discussion and possible action regarding complaint number 17-D007 involving certificate holder Arizona Defensive Driving School (#58).*

*2-B: Review, discussion and possible action regarding complaint number 17-D008 involving certificate holder Arizona Defensive Driving School (#58).*

*2-C: Review, discussion and possible action regarding complaint number 18-D005 involving certificate holder Arizona Driving School (#425).*

*2-D: Update regarding the status of pending complaints.*

**3) INITIAL CERTIFICATION AND ELIGIBILITY.....***Division Staff*

*3-A: Review, discussion and possible action regarding pending application for initial certification for SOS Safe Driving Online School.*

3-B: *Review, discussion and possible action regarding pending application for initial defensive driving instructor certification for the following applicants:*

1. Jeffrey Hallums
2. Walter Stone

**4) RENEWAL CERTIFICATION APPLICATIONS.....Division Staff**

4-A: *Review, discussion and possible action regarding the following pending applications for renewal of defensive driving instructor certification:*

- |                         |                        |
|-------------------------|------------------------|
| 1. Ah Sing Claude       | 10. Porter, Paul       |
| 2. Bitner, Jeffrey      | 11. Villanueva, Felix  |
| 3. Campbell, Mark       | 12. Wright, Michael    |
| 4. Gammill, Thomas      | 13. Zahara, Jan        |
| 5. Hemshrot, Deborah    | 14. Zamudio, Crispin   |
| 6. Hernandez, Arnold    | 15. Zhelyazkov, Zhivko |
| 7. Hernandez, Valentino | 16. Biasiucci, Mario   |
| 8. Jones, Hugh          | 17. Zahara, Joseph     |
| 9. Morrison, Donald     |                        |

**5) ADMINISTRATIVE ISSUES .....Division Staff**

5-A: *Discussion regarding standardization of webpage language concerning live class start and end times.*

5-B: *Discussion regarding issues identified through instructor monitoring.*

5-C: *Update regarding August 3, 2018 Instructor Training.*

5-D: *Update regarding minimum security standards for defensive driving schools.*

5-E: *Review, discussion and possible action regarding the defensive driving school certification renewal application deadline.*

5-F: *Review, discussion and possible action regarding scheduling a tentative meeting for November 5, 2018.*

**CALL TO THE PUBLIC ..... Daniel Edwards, Chair**

**ADJOURN ..... Daniel Edwards, Chair**

**DEFENSIVE DRIVING BOARD**  
**Agenda Summary – Thursday, August 16, 2018**

**1) REVIEW AND APPROVAL OF MINUTES**

*1-A: Review, discussion and possible action regarding the regular session minutes for the meeting of June 14, 2018.*

Attached for the Board's review and approval are the regular session minutes of the June 14, 2018 meeting.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, August 16, 2018**

### **2) PENDING COMPLAINTS**

*2-A: Review, discussion and possible action regarding complaint number 17-D007 involving certificate holder Arizona Defensive Driving School (#58).*

On 8/7/2017, Division staff learned that school 058 (AZ Def. Driving School) had sent a “bad check” to a court. Further investigation determined there were two “bad checks”, one to the Clifton Justice Court and one to the Seligman Justice Court. Subsequently school 58 made appropriate payment to the two courts.

During this investigation, Division was also made aware of two additional NSF checks issued by another school related by ownership. The “Allstate Defensive Driving School” issued two \$150 checks to the Wellton Justice Court, one for each of two separate defendants. Both checks were processed on July 27, 2017 and both were subsequently returned by the bank for NSF. The court received full payment on or about August 21, 2017. No complaint has been initiated by the Wellton Justice Court.

#### **Recommendation:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Arizona Defensive Driving School #058 has committed the alleged act(s) of misconduct as detailed in Allegation 1 of the Investigation Summary and Allegation Analysis Report in complaint number 17-D007.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA § 7-205(F)(28)(f)(2) for failure to timely submit diversion payments.

It is further recommended the Board issue a censure to School #58.

It is further recommended that the Board dismiss Allegation 2, without prejudice.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, August 16, 2018**

### **2) PENDING COMPLAINTS**

*2-B: Review, discussion and possible action regarding complaint number 17-D008 involving certificate holder Arizona Defensive Driving School (#58).*

Complainant explained to Division that two defendants both attended traffic school with AZ Defensive Driving in July of 2017. Complainant noted the court did not receive their diversion fees via the school until August 31, 2017; almost a month later. Although both defendants had appearance dates soon after their completions, internal “checks and balances” per the Complainant prevented their license suspensions. In its written response, AZ Defensive Driving admits the mistake and blames it on “human error” with respect to their monthly reconciliation process.

#### **Recommendation:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Arizona Defensive Driving School #058 has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 17-D008.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA § 7-205(F)(28)(f)(2) for failure to timely make diversion fee payments.

It is further recommended the Board issue a censure.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, August 16, 2018**

### **2) PENDING COMPLAINTS**

*2-C: Review, discussion and possible action regarding complaint number 18-D005 involving certificate holder Arizona Driving School (#425).*

On April 3, 2018 Lorena Schmit, owner of Arizona Driving School #425 came to the Office of Certification & Licensing Division to speak with staff regarding her delinquency of state fee payments. At the time of the meeting the following payments were in arrears:

- Payment Period 01/16/2018 – 1/31/18
- Payment Period 02/01/2018 – 02/15/18
- Payment Period 02/16/2018 – 02/28/18
- Payment Period 03/01/2018 – 03/16/18
- Payment Period 03/16/2018 – 03/31/18

Ms. Schmit stated she was aware there were delinquent payments and her only excuse was that she had been very busy as of late, had done some traveling, and had neglected to make her required payments. Ms. Schmit delivered payment at that time. Ms. Schmit was told that despite her payments, a complaint would be opened against her.

On May 15, 2018, CLD Compliance Specialist Afton Foutz advised Division Investigator Keenom of yet another series of late payment of state fees by Arizona Driving School #425. Ms. Foutz related that on May 8, 2018, Ms. Schmit came to the CLD office and hand delivered two checks for remittance payment periods A & B for the month of April 2018.

#### **Recommendation:**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding AZ Driving School, school # 425 has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 18-D005.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA § 7-205(F)(28)(e) for failure to timely make state fee payments.

It is further recommended the Board issue a Censure.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, August 16, 2018**

### **2) PENDING COMPLAINTS**

*2-D: Update regarding the status of pending complaints.*

As of August 16, 2018, there are currently 11 open complaints, 3 of which have been presented on this agenda with dispositive recommendations under agenda items 2-A, 2-B and 2C.

### **DEFENSIVE DRIVING COMPLAINTS COURTOOLS MEASURE 4 AGE OF PENDING CASELOAD Shaded Areas Indicate Cases within Time Standard of 22 Months**

<b>Age (Months)</b>	<b>Number Cases</b>	<b>Percent</b>	<b>Cumulative Percent</b>
<b>0-4</b>	9	82%	82%
<b>5-9</b>	0	0%	82%
<b>10-14</b>	2	18%	100%
<b>15-19</b>			
<b>20-22</b>			
<b>23-35</b>			
<b>36-50</b>			
<b>Over 50</b>			
<b>Total</b>	<b>11</b>	<b>100%</b>	<b>100%</b>

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, August 16, 2018**

### **3) INITIAL CERTIFICATION AND ELIGIBILITY**

*3-A: Review, discussion and possible action regarding pending applications for initial certification of the following defensive driving schools:*

#### **1. SOS SAFE DRIVING ONLINE SCHOOL**

The above-named school is an internet format defensive driving school. The application was received on October 12, 2017 and was submitted by Marvin Kerby. On January 15, 2018 the division received an email from Laura Kerby explaining that the business was being purchased by her and her husband Joseph Kerby. The principal is Joseph Kerby. The school's office is located in Gilbert, Arizona. In addition to this school, the Kerby's also own schools Affordable Online Traffic School, LLC, \*\*\*\*\*FAST...AFORDABLE...ONLINE...TRAFFIC...SCHOOL\*\*\*\*\*, Arizona's Best Affordable Online Traffic School, Super Duper Quick & Easy, Easy Breezy Cheap & Easy, \*\*\*\*\*Super Fast Arizona 24/7 Fast Affordable Online Traffic School, >>>>>Super Cheap Arizona 24/7 Fast Affordable Online Traffic School, \*\*\*\*\*The 24/7 Super Fast Arizona Affordable Online Traffic School, \*\*\*\*\*Open 24/7 Super Cheap Arizona Affordable Online Traffic School and \*\*\*\*\*Quick Fast 24/7 Arizona First Affordable Online Traffic School.

On May 30, 2018 division staff emailed the applicant advising them that if the school were approved it would be under current code provisions, with the following language:

*When revising the curriculum, you may want to consider the changes to ACJA 7-205 recently approved by the Arizona Judicial Council, specifically as they are related to the Administrative Order signed by Chief Justice Bales. The Administrative Order stipulates that the division director may provisionally approve an application for an online curriculum if the school was previously certified as the date of the order, which is May 2, 2018. It also stipulates that the school must certify that the curriculum is substantially different and meets all other program and curriculum requirements of ACJA 7-205 effective November 1, 2018.*

*The administrative order will NOT apply to this school/ curriculum, as it was not certified prior to May 2, 2018. When this school is approved (potentially at the June or August board) you would be able to operate under the current rules until October 31, 2018. On November 1, 2018, if you have not revised your curriculum and it has not been approved by the Board, you would need to halt operation, change the curriculum to meet the specification of the new code, and would not be able to operate until the new curriculum can be approved by the board.*



On June 20 the applicant replied by email that they understood the conditions.

Division staff has performed a review of the new school's application and curriculum.

It is recommended initial certification be granted to SOS SAFE DRIVING ONLINE SCHOOL, stipulating the school operate under ACJA 7-205 in effect until October 31, 2018.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, August 16, 2018**

### **3) INITIAL CERTIFICATION AND ELIGIBILITY**

*3-B: Review, discussion and possible action regarding pending applications for initial defensive driving instructor certification for the following applicants:*

The following applicants have applied for initial individual defensive driving instructor certification. The applicants have successfully passed the program examination and have submitted complete applications demonstrating that they meet the minimum education and experience requirements.

The Division recommends approval of initial defensive driving instructor certification for the following applicants:

1. Jeffrey Hallums
2. Walter Stone

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary – Thursday, August 16, 2018**

### **4) RENEWAL CERTIFICATION APPLICATIONS**

*4-A: Review, discussion and possible action regarding pending applications for renewal of certification:*

The following individual certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It is recommended renewal of standard certification be granted to the following individuals:

- |                         |                        |
|-------------------------|------------------------|
| 1. Ah Sing Claude       | 9. Morrison, Donald    |
| 2. Bitner, Jeffrey      | 10. Porter, Paul       |
| 3. Campbell, Mark       | 11. Villanueva, Felix  |
| 4. Gammill, Thomas      | 12. Wright, Michael    |
| 5. Hemshrot, Deborah    | 13. Zahara, Jan        |
| 6. Hernandez, Arnold    | 14. Zamudio, Crispin   |
| 7. Hernandez, Valentino | 15. Zhelyazkov, Zhivko |
| 8. Jones, Hugh          |                        |

16. Mario Biasiucci has submitted a Defensive Driving Instructor renewal application for standard certification. The application is complete. The applicant did not disclose they had a civil case, case number CV2016-07150. This lawsuit is a civil foreclosure. The applicant's attorney stated in a letter that the applicant is from another country and likely did not understand the thrust of the question. The applicant understood the question as asking him if he was involved in any criminal activity or any activity that would involve moral turpitude or dishonesty.

The attorney further stated there was never any intent on Mr. Biasucci's part to conceal these proceedings as he simply misunderstood the legal terms of art raised by the question itself.

It is recommended renewal of standard certification be granted to Mr. Mario Biasucci, with standard non-disclosure language.

17. Joseph Zahara has submitted a Defensive Driving Instructor renewal application for standard certification. The application is complete. The applicant disclosed a civil case, case number CV2017-255185. This was a civil lawsuit between individual instructors in the defensive driving industry and competition between them.

The certificate holder has demonstrated they meet the minimum eligibility requirements for standard renewal certification.

It is recommended renewal of standard certification be granted to Mr. Joseph Zahara.

**DEFENSIVE DRIVING BOARD**  
**Agenda Summary – Thursday, August 16, 2018**

**5) ADMINISTRATIVE ISSUES**

*5-A: Discussion regarding standardization of webpage language concerning live class start and end times.*

Staff will provide information at the meeting.

**DEFENSIVE DRIVING BOARD**  
**Agenda Summary – Thursday, August 16, 2018**

**5) ADMINISTRATIVE ISSUES**

*5-B: Discussion regarding issues identified through instructor monitoring.*

Staff will provide information at the meeting.

**DEFENSIVE DRIVING BOARD**  
**Agenda Summary – Thursday, August 16, 2018**

**5) ADMINISTRATIVE ISSUES**

*5-C: Update regarding August 3, 2018 Instructor Training.*

Staff will provide information at the meeting.

**DEFENSIVE DRIVING BOARD**  
**Agenda Summary – Thursday, August 16, 2018**

**5) ADMINISTRATIVE ISSUES**

*5-D: Update regarding minimum security standards for defensive driving schools.*

Staff will provide information at the meeting.

# **DEFENSIVE DRIVING BOARD**

## **Agenda Summary - Thursday, August 16, 2018**

### **5) ADMINISTRATIVE ISSUES**

*5-E: Review, discussion and possible action regarding the defensive driving school certification renewal application deadline.*

Active school certificates expire at midnight on October 31<sup>st</sup>, 2018.

The Division recommends that the Board establish the school renewal application period beginning September 1, 2018 through October 31, 2018. In the event that a certificate holder has filed a timely and complete application for renewal, the existing certification does not expire until the Board has acted on the application for renewal of certification.



**DEFENSIVE DRIVING BOARD**  
**Agenda Summary – Thursday, August 16, 2018**

**5) ADMINISTRATIVE ISSUES**

*5-F: Review, discussion and possible action regarding the tentative meeting on November 5, 2018.*

Staff will provide information at the meeting.